San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | <u>info@bcdc.ca.gov</u> | <u>www.bcdc.ca.gov</u>

July 1, 2022

Mr. Wade Crowfoot Secretary for Natural Resources California Natural Resources Agency 715 P Street, 20th Floor Sacramento, CA 95814

SUBJECT: Notice of Decision of the San Francisco Bay Conservation and Development Commission to Adopt San Francisco Bay Plan Amendment No. 2-19 Removing the Port Priority Use Area Designation From Howard Terminal in the City of Oakland

Dear Secretary Crowfoot:

Pursuant to the requirements of Public Resources Code section 21080.5(d)(2)(E) and Title 14 of the California Code of Regulations ("CCR") section 11007(a), we hereby file notice with you that on June 30, 2022 the San Francisco Bay Conservation and Development Commission ("BCDC" or "the Commission") voted to adopt Bay Plan Amendment ("BPA") No. 2-19 to its San Francisco Bay Plan ("Bay Plan") and Seaport Plan via Resolution No. 2022-02 (attached).

BPA No. 2-19 makes the following changes to the Bay Plan and the Seaport Plan:

- 1. Amends the Bay Plan and Seaport Plan to remove the Port Priority Use Area ("PUA") designation at Howard Terminal at the Port of Oakland in the City of Oakland, including more particularly the following changes:
 - Makes certain changes to the Bay Plan Maps 4 and 5 as well as the Seaport Plan Tables 5, 10, 11, and Figure 4, by removing the Port PUA designation from 56 acres of Port PUA at Howard Terminal, as described in Exhibit A of Resolution No. 2022-02;
 - b. Makes certain changes to Commission Resolution No. 16 establishing Port PUA boundaries within the shoreline band at the Port of Oakland, as described in Resolution No. 2022-02.

The Commission prepared an initial and a revised Environmental Assessment ("EA")¹ for BPA No. 2-19 in accordance with its certified regulatory program for purposes of the California

¹ The initial EA prepared for the June 2, 2022 public hearing on BPA No. 2-19 can be found here: <u>https://bcdc.ca.gov/BPA/2-19/BPA-2-19-Howard-Terminal-Environmental-Assessment.pdf</u>. The revised EA prepared for the June 30, 2022 Commission meeting at which the Commission adopted BPA No. 2-19 can be found here: <u>https://bcdc.ca.gov/BPA/2-19/06-30-BPA-2-19-Appendix-D-Revised-EA.pdf</u>. Errata corrections to the



Secretary Wade Crowfoot BCDC BPA No. 2-19 (Howard Terminal)

Environmental Quality Act ("CEQA") for its planning program under the McAteer-Petris Act² and determined that BPA No. 2-19 would not have any direct or indirect significant adverse environmental impacts. Beyond filing this notice with the Secretary for Natural Resources, public notice of the Commission's action on BPA No. 2-19 is also being given pursuant to Public Resources Code section 21080.5(d)(2)(F), 14 CCR section 11007(b), posting on the Office of Planning and Research's ("OPR") CEQANet web portal, physical mailing to OPR's physical office, and posting on BCDC's website.³

BPA No. 2-19 will not have an effect on fish and wildlife. Any future project proposal which may follow removal of the Port PUA designation from Howard Terminal will require a separate permit application from the Commission, at which time that specific project proposal will be evaluated to determine whether it will have any impacts on fish and wildlife. Because BPA No. 2-19 will not have any effect on fish or wildlife, no fee is required pursuant to Fish and Game Code section 711.4(c)(2)(A) or (d)(4).

Commission action on BPA No. 2-19 at its June 30, 2022 meeting is more fully described in the enclosed Resolution No. 2022-02. Inquiries concerning the Commission's action should be directed to Michael Ng (415-352-3610 or <u>michael.ng@bcdc.ca.gov</u>) at the Commission's office.

² For authority of BCDC's certified regulatory program under CEQA, reference Public Resources Code section 21080.5 and 14 CCR 15251(h). For the EA process under BCDC's certified regulatory program for its planning program, reference 14 CCR sections 11003(b)(6), 11005(b)(2)-(3), and 11521.

³ OPR's CEQANet web portal is accessible at <u>https://ceqanet.opr.ca.gov/</u>. A State Clearinghouse ("SCH") number for this notice cannot be generated through CEQANet until this document has been submitted through CEQANet. However, once submitted this notice should be search-accessible on CEQANet using the key phrase "Bay Plan Amendment No. 2-19 (Howard Terminal)" and by searching for "San Francisco Bay Conservation and Development Commission." The notice will also be posted on BCDC's website at <u>https://bcdc.ca.gov/BPA/2-</u> <u>19/CNRA-Notice-of-Decision.pdf</u> and linked from the project webpage for BPA No. 2-19 on BCDC's website at <u>https://bcdc.ca.gov/BPA/BPA2-19.html</u>.



revised EA can be found on page 23 of the document here: <u>https://bcdc.ca.gov/BPA/2-19/06-30-Howard-Terminal-Bay-Plan-Amendment-2-19-Staff-Presentation.pdf</u>. Physical copies of all of these documents are available upon request at BCDC's physical office at 375 Beale Street, Suite 510, San Francisco, CA 94105.

Secretary Wade Crowfoot BCDC BPA No. 2-19 (Howard Terminal) Page 3 July 1, 2022

Sincerely,

Michael Ng

Michael Ng For Larry Goldzband, Executive Director

San Francisco Bay Conservation and Development Commission 375 Beale Street, Suite 510 San Francisco, California 94105 Tel: 415-352-3600

Enclosure: 1. Resolution No. 2022-02

CC: Governor's Office of Planning and Research



San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | <u>info@bcdc.ca.gov</u> | <u>www.bcdc.ca.gov</u>

Resolution No. 2022-02

Adoption of Bay Plan Amendment 2-19 Removing the Port Priority Use Area Designation from Howard Terminal in the City of Oakland

Whereas, in 1965, the McAteer-Petris Act established the San Francisco Bay Conservation and Development Commission ("BCDC" or "the Commission") as a temporary State agency, designated the San Francisco Bay as a State-protected resource, and charged the Commission with preparing a plan for the long-term of the Bay and regulating development in and around the Bay while the plan was being prepared;

Whereas, the initial San Francisco Bay Plan (Bay Plan) was approved in 1968, BCDC was made permanent one year later, and BCDC updates the Bay Plan regularly to ensure that the Bay and its shoreline are developed and conserved responsibly and to address new issues as the Bay Area changes;

Whereas, the Commission, in collaboration with the five Bay Area ports, adopted the Seaport Plan in 1982 as a more specific application of the San Francisco Bay Plan, to minimize the risk of uncoordinated, haphazard Bay fill and to encourage the ports to coordinate their planning and development;

Whereas, Government Code Section 66652 states that "the Commission at any time may amend, or repeal and adopt a new form of, all or any part of the San Francisco Bay Plan but such changes shall be consistent with the findings and declaration of policy" contained in the McAteer-Petris Act;

Whereas, the Legislature directed the Commission to keep the Bay Plan up to date so that it reflects the latest scientific research on the Bay and addresses emerging issues that could impact the Bay in the future. To accomplish this, the Legislature empowered the Commission to amend the Bay Plan if it pertains to a policy or standard contained in the Bay Plan or defines a water oriented use referred in Government Code Sections 66602 or 66605 upon two-thirds (18) of the 27 members of the Commission voting for the amendment, after providing an opportunity for public review of the proposed amendment and after holding a public hearing on the amendment. Over its history, the Commission has made numerous amendments to the Bay Plan, ranging from changing a boundary of a Bay Plan map designation to addressing policy issues, such as climate change and environmental justice;

Whereas, the Commission received and filed an application from the Oakland Athletics (Applicant) to modify the Bay Plan Maps 4 and 5 as well as Table 5, Table 10, Table 11, and Figure 4 of the Seaport Plan by removing the Port Priority Use Area designation from 56 acres of Port Priority Use Area at Howard Terminal at the Port of Oakland;

Whereas, the Commission: (1) on January 17, 2019, approved a Descriptive Notice on the proposed Bay Plan Amendment and set a public hearing date for December 5, 2019; (2) on April 5, 2019, mailed the Descriptive Notice to all agencies, organizations and individuals interested in the proposed amendment; (3) On November 22, 2019, mailed a Notice of Revised Date of Public Hearing and set a new public hearing date for June 18, 2020, and subsequently mailed additional notices of Revised Date of Public Hearings for March 18, 2021, October 21, 2021, February 17, 2022, May 5, 2022, and June 2, 2022; (4) on May 2, 2022, mailed by first class postal service the Staff Report, Preliminary Recommendation and Environmental Assessment to all agencies, organizations and individuals interested in the proposed amendment; (5) on June 2, 2022, held a public hearing to receive public comments on the proposed amendment, preliminary recommendation and environmental assessment; (6) on June 17, 2022, mailed the final staff recommendation and revised environmental assessment to all agencies, organizations, and individuals who received the staff planning report and who are known to be interested in the proposed amendment; (7) on June 30, 2022, voted on the staff's final recommendation, all in accord with the requirements and procedures set out in Government Code Section 66652 and the California Code of Regulations, Sections 11000, 11001, 11002, 11103, 11004, 11005, and 11006;

Whereas, the Commission has considered all oral comments presented at the June 2, 2022, public hearing, as well as all written comments received, and staff has responded to those comments;

Whereas, the Oakland Athletics, as Applicant for BPA 2-19, have demonstrated that the removal of Howard Terminal from Port Priority Use Area designation does not detract from the regional capability to meet the projected growth in cargo; and that the Applicant included a justification for the proposed deletion and demonstrated that the Cargo Forecast can be met with existing terminals;

Whereas, the Commission has prepared a Revised Environmental Assessment, incorporating the errata corrections presented by staff on slide 23 of staff's presentation at the June 30, 2022 meeting, for the proposed Bay Plan amendment in accordance with the Commission's regulations implementing CEQA. The Revised Environmental Assessment concludes that BPA No. 2-19, as a change to a planning-level designation, would not result in any direct or indirect significant adverse environmental impacts.

Whereas, assuming the Ballpark Project to be a reasonably foreseeable indirect effect or consequence of BPA No. 2-19 which, as identified in the Revised EA and which incorporates by reference the City's certified EIR, would result in significant and unavoidable impacts with respect to wind, construction emissions, operation emissions, cumulative air quality, historic resources, cumulative historic resources, construction noise, vibration, cumulative noise, at-grade crossings, and degradation of MTS or CMP roadway segments.

Whereas, it is not feasible for the Commission to impose development-level mitigation for a project that is not before it as a condition of its action on a BPA to remove a PUA designation and that responsibility for mitigating significant impacts of the Ballpark Project will in some instances be the responsibility of other agencies when issuing their entitlements for the Ballpark Project.

Whereas, the Commission is acting as CEQA lead agency for purposes of BPA No. 2-19, the purpose of which is different than the Ballpark Project, and the Commission will act as CEQA responsible agency for purposes of the Ballpark Project if and when a major permit application is submitted for that Project, at which time the Commission will be able to meaningfully evaluate the environmental impacts of the Ballpark Project and require mitigation measures to lessen those impacts consistent with and pursuant to the Commission's laws and policies.

Now, Therefore, Be It Resolved That, the San Francisco Bay Conservation and Development Commission hereby adopts the following Bay Plan Amendment:

Bay Plan Amendment No. 2-19, a request by the Oakland Athletics to amend the San Francisco Bay Plan (Bay Plan) and Seaport Plan to remove the Port Priority Use Area (PUA) designation at Howard Terminal at the Port of Oakland.

Be it further resolved that, the above Bay Plan Amendment makes changes to the San Francisco Bay Plan Map 4 and Map 5 as well as Table 5, Table 10, Table 11, and Figure 4 of the Seaport Plan, by removing the Port Priority Use Area designation from 56 acres of Port Priority Use Area at Howard Terminal at the Port of Oakland, as described in **Exhibit A**.

Be it further resolved that, the San Francisco Bay Conservation and Development Commission hereby adopts Bay Plan Amendment No. 2-19 which amends Resolution 16 with the underlined language added and the language struck through as deleted, as follows:

52. Oakland (Port) (Amended by Bay Plan Amendment Nos. 5-82 and 4-00 and 2-19)

(A) West Boundary: A line parallel to Wake Avenue from its intersection with Grand Avenue extended east to Wood Avenue.

(B) East Boundary: Clay Street, Oakland, extended to shoreline. East line of parcel number 18-395-1.

Be it further resolved that, the above Bay Plan Amendment conforms to all relevant policies of Government Code sections 66000 through 66661 as more fully discussed in the Preliminary Staff Planning Report and the Final Staff Planning Recommendation, which are hereby incorporated by reference.

Be it further resolved that, the Commission finds that, based on the Revised Environmental Assessment which is hereby incorporated by reference, there will be no substantial adverse impacts on the environment directly or indirectly created by or resulting from amending the San Francisco Bay Plan by modifying Map 4 and Map 5 as well as Table 5, Table 10, Table 11, and Figure 4 of the Seaport Plan, by removing the Port Priority Use Area designation from Howard Terminal as requested by the Applicant.

Be it further resolved that, assuming the Ballpark Project to be a reasonably foreseeable indirect effect or consequence of BPA No. 2-19, that the Ballpark Project would result in significant and unavoidable impacts with respect to wind, construction emissions, operation emissions, cumulative air quality, historic resources, cumulative historic resources, construction noise, vibration, cumulative noise, at-grade crossings, and degradation of MTS or CMP roadway segments.

Be it further resolved that, it is not feasible for the Commission to impose development-level mitigation for a project that is not before it as a condition of its action on a BPA to remove a PUA designation and that responsibility for mitigating significant impacts of the Ballpark Project will in some instances be the responsibility of other agencies when issuing their entitlements for the Ballpark Project.

Be It further resolved that, the Commission finds that the Applicant is required to apply for and obtain a permit from the Commission to authorize those portions of its proposed Ballpark Project that are in the Commission's Bay and shoreline band jurisdiction. The Commission further finds that in considering any permit application submitted by the Applicant, the Commission, as CEQA responsible agency for purposes of the Ballpark Project, will evaluate the consistency of the proposed Ballpark Project with the Commission's laws and policies in place at that time, as well as any feasible alternatives and mitigation measures within the scope of the Commission's authority and jurisdiction;

Be it further resolved that, the San Francisco Bay Conservation and Development Commission authorizes the Executive Director to make minor, non-substantive editorial changes to this Resolution, in particular to comply with the determinations of the Office of Administrative Law in its review of the Resolution under the California Administrative Procedures Act.

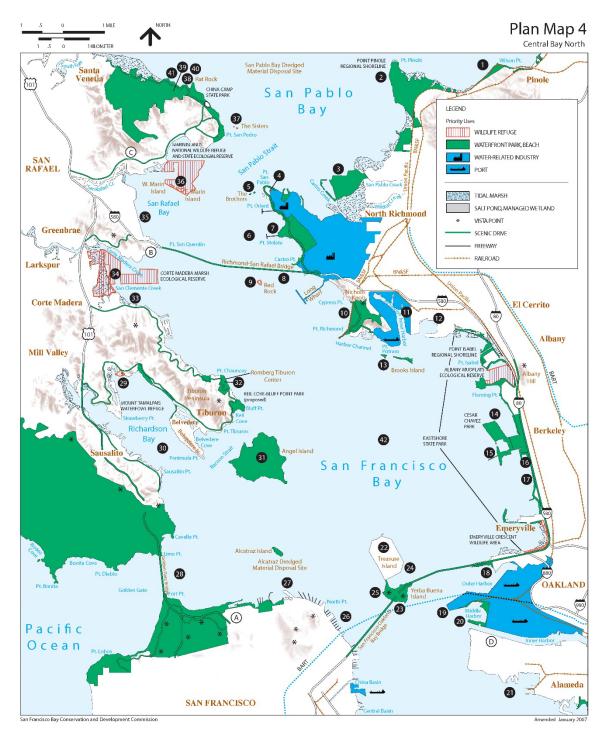
We certify that this resolution was adopted by a vote of ______ "yes" votes, _____ "no" votes and ______ abstentions at the Commission meeting held June 30, 2022, in San Francisco, California.

Executed on this ______ day of__ when, 2022 in Sap Francisco ARY WASSERMAN Chair 12022 in San Francisco, California. Executed on th VRENCE . GOLDZBAND Executive Director

Exhibit A: Revisions to the Bay Plan

There are no direct references to Howard Terminal in the text of the Bay Plan. Howard Terminal is part of the Oakland Port Priority Use Area site, illustrated in two maps that will be updated to reflect the removal of Howard Terminal. These maps are Bay Plan Maps 4 and 5.

Figure 1: Existing Bay Plan Map 4





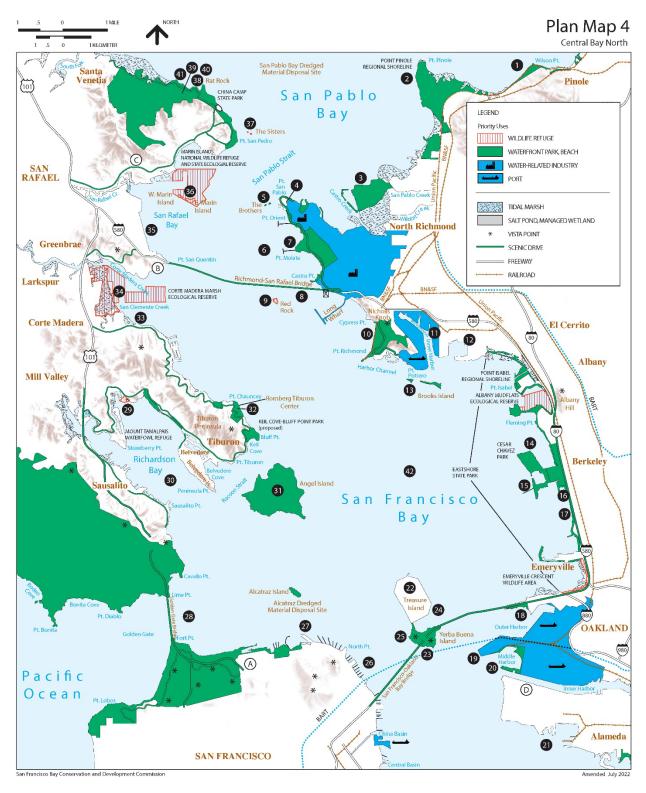


Figure 3: Existing Bay Plan Map 5

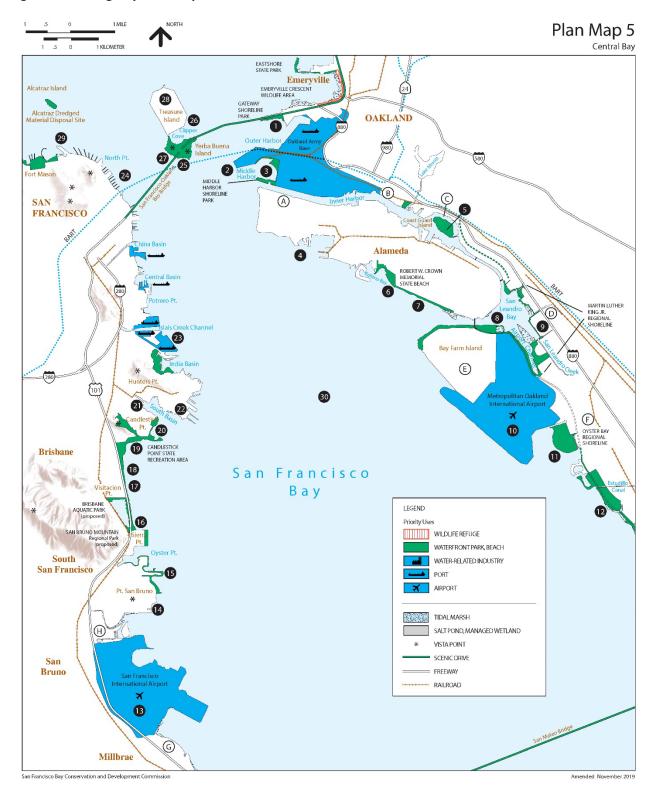
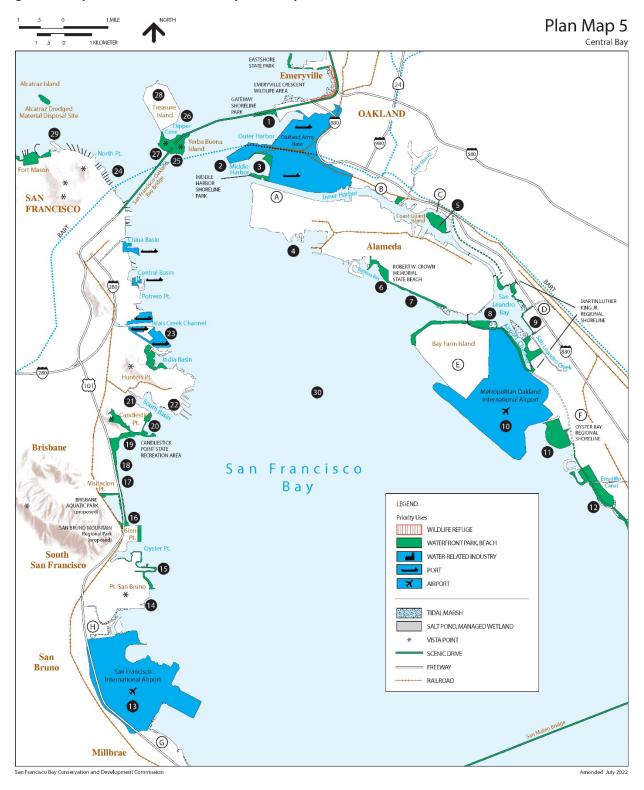


Figure 4: Proposed Amendment to Bay Plan Map 5



The Seaport Plan does not mention Howard Terminal by name in its text. Howard Terminal is identified in a column, in Table 10, "Port of Oakland Current Facilities," that will be removed. Rows specific to the "Inner Harbor" in Table 5 and Table 11 will also be amended.

Figure 5: Existing Seaport Plan Table 10

Table 10: Port of Oakland Current Facilities

	SEA-LAND (Berths 20-22)	YUSEN (Berth 23)	MAERSK LINE (Berth 24)	TRANSBAY (Berths 25,26)	MITSUI (Berth 30)	MAISON (Berths 32-34)
Terminal Operator	Sea-Land Service	Yusen Terminals	Maersk	TransBay Container	Mitsui	Matson Terminal
Cargoes Handled	Containers	Containers	Containers	Containers	Containers	Containers, Break bulk, roll-on/roll-off
Total Terminal Area (acres)	71	42	38	31	38	66
Length of Berths (feet)	2,056	900	1,046	1,353	1,100	2,252
Wharf Area (acres)	(acres)		-	-	-	-
Open Storage Area (acres)	n Storage Area (acres) 48.5		32 32 21		28	46
Depth of Water (ft. MLLW)	40	40	42	38	42	38
Transit Shed Area (acres)	-	-		-	-	
Ship Calls in 1993	157	209	116	101	3	125
Special Equipment/Facilities	4 cranes 36 hostlers	2 cranes 12 hostlers	3 cranes 27 hostlers	3 cranes 16 hostlers	2 cranes 15 hostlers	3 cranes 30 stradiers/hostler

	TRAPAC (Berth 35)	7th STREET (Berths 37, 38)	A.P.L. (Berths 60-63)	HOWARD (Berths 67-69)	9th AVENUE (Berths 82-84)	BAY BRIDGE (Berths 8-10)
Terminal Operator	TransPacific Containers	Marine Terminals Corp.	American President Lines	Stevedoring Services of America	Marine Terminals Corp.	not in use due to earthquake damage
Cargoes Handled Containers		Containers	Containers	Containers, break bulk and Steel	Break bulk	Break bulk
iotal Terminal Area (acres) 20		36	82	53	31	62
ength of Berths (feet) 900		1,944	2,742	1,712	2,066	3,039
Wharf Area (acres)	-	-	-	4.5	5	12.9
Open Storage Area (acres)	pen Storage Area (acres) 9.5		62.3	35.61	13.13	43.09
Depth of Water (ft. MLLW)	42	42	40	40	35	35
Transit Shed Area (acres)	-	-	-	0	4.84	3.35
Ship Calls in 1993	78	156	271	196	43	13
Special Equipment/Facilities	2 cranes 16 hostlers	4 cranes 35 top/hostlers	5 cranes 42 hostlers	3 cranes 15 hostlers	30 forklifts	30 forklifts

Figure 6: Proposed Amendment to Seaport Plan Table 10

Table 10: Port of Oakland C	Current Facilities
-----------------------------	--------------------

Berth(s)	SEA-LAND	YUSEN	MAERSK	TRANSBAY	MITSUI	MATSON
	(Berths 20-	(Berth 23)	LINE	(Berths 25,	(Berth 30)	(Berths 32-34)
	22)		(Berth 24)	26)		
Terminal Operator	Sea-Land	Yusen	Maersk	TransBay	Mitsui	Matson Terminal
	Service	Terminals		Container		
Cargoes Handled	Containers	Containers	Containers	Containers	Containers	Containers,
						Break Bulk, roll- on/roll-off
Total Terminal Area (acres)	71	42	38	31	38	66
Length of Berth (feet)	2,056	900	1,046	1,353	1,100	2,252
Wharf Area (acres)	-	-	-	-	-	-
Open Storage Area (acres)	48.5	32	32	21	28	46
Depth of Water (tt. MLLW)	40	40	42	38	42	38
Transit Shed Area (acres)	-	-	-	-	-	-
Ship Calls in 1993	157	209	116	101	3	125
Special	4 cranes	2 cranes	3 cranes	3 cranes	2 cranes	3 cranes
Equipment/Facilities	36 hostlers	12 hostlers	27 hostlers	16 hostlers	15 hostlers	30
						stradlers/hostlers

Berth(s)	TRAPAC	7 th STREET	A.P.L.	9 th AVENUE	BAY BRIDGE
	(Berth 35)	(Berths 37, 38)	(Berths 60- 63)	(Berth 82-84)	(Berths 8-10)
Terminal Operator	TransPacific	Marine	American	Marine	not in use due to
	Containers	Terminals Corp.	President	Terminals	earthquake
			Lines	Corp.	damage
Cargoes Handled	Containers	Containers	Containers	Break Bulk	Break Bulk
Total Terminal Area	20	36	82	31	62
(acres)					
Length of Berth (feet)	900	1,944	2,742	2,066	3,039
Wharf Area (acres)	-	-	-	5	12.9
Open Storage Area	9.5	28	62.3	13.13	43.09
(acres)					
Depth of Water (tt.	42	42	40	35	35
MLLW)					
Transit Shed Area	-	-	-	4.84	3.35
(acres)					
Ship Calls in 1993	78	156	271	43	13
Special	2 cranes	4 cranes	5 cranes	30 forklifts	30 forklifts
Equipment/Facilities	16 hostlers	35 top/hostlers	42 hostlers		

Figure 7: Existing Seaport Plan Table 5

Port	Container	Break Bulk	Neo-Bulk	Dry Bulk	Liquid Bulk
Benicia	-	-	374	600	
Oakland					
Outer Harbor	1,447	-	•	-	
Seventh Street Harbor	1,005	-	.	-	
Middle Harbor					
FISCO	1,619	· ·		-	•
APL	1,484	-	•		1.0
Inner Harbor	601	-	•	-	•
Redwood City	-	128	853	1,293	90
Richmond	510	-	286	1,037	
San Francisco	749	78	103	1,219	118
Bay Area Average	1,043	103	404	1,037	104

Table 5: Expected Throughput Capability per Port per Berth (in thousands of metric tons)

Figure 8: Proposed Amendment to Seaport Plan Table 5

Table 5: Expected Throughput Capability per Port per Berth (in thousands of metric tons)

Port	Containers	Break Bulk	Neo-Bulk	Dry Bulk	Liquid Bulk
Benicia	-	-	374	600	-
Oakland					
Outer Harbor	1,447	-	-	-	-
Seventh Street	1,005	-	-	-	-
Harbor					
Middle Harbor					
FISCO	1,619	-	-	-	-
APL	1,484	-	-	-	-
Inner Harbor	<u>552</u>				
Redwood City	-	128	853	1,293	90
Richmond	510	-	286	1,037	-
San Francisco	749	78	103	1,219	118
Bay Area Average	<u>1,052</u>	103	404	1,037	104

Figure 9: Existing Seaport Plan Table 11

Table 11: Por	t of Oakland	Future Facilities
---------------	--------------	-------------------

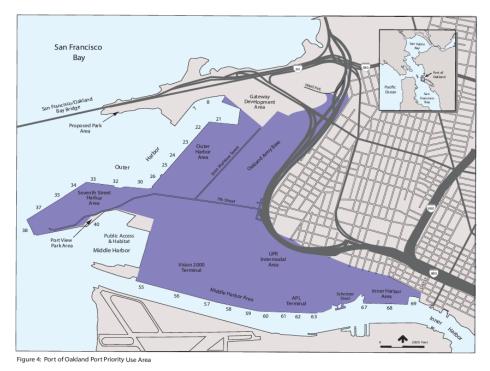
TERMINAL	DESIGNATION	TERMINAL ACRES	CARGO TYPE	EFFECTIVE NO. OF BERTHS	AVERAGE PER BERTH THROUGHPUT CAPACITY*	TOTAL THROUGHPUT
Outer Harbor Terminal Area	Active (assumes 29 acres of fill)	295	Container	5	1,446,975	7,234,875
Seventh Street Harbor Terminal Area	Active	205	Container	5	1,005,525	5,027,625
Middle Harbor Terminal Area						
FISCO	Future (under construction)	330	Container	5	1,618,650	8,093,250
APL	Active	121	Container	2	1,483,763	2,967,525
Inner Harbor Area	Active	49	Container	2	600,863	1,201,725
Schnitzer Steel	Active	60	Dry Bulk	2	1,037,000	2,074,000
TOTALS		1,060		21		N/A
Container		1,000		19		24,525,000
Dry Bulk		60		2		2,074,000

* In annual metric tons.

Figure 10: Proposed Amendment to Seaport Plan Table 11

TERMINAL	DESIGNA TION	TERMINAL ACRES	CARGO TYPE	EFFECTIVE NO. OF BERTHS	AVERAGE PER BERTH THROUGHPUT CAPACITY*	TOTAL THROUGHPUT*
Outer Harbor Terminal Area	Active (assumes 29 acres of fill)	295	Container	5	1,446,975	7,234,875
Seventh Street Harbor Terminal Area	Active	205	Container	5	1,005,525	5,027,625
Middle Harbor Terminal Area						
FISCO	Future (under constructi on)	330	Container	5	1,618,650	8,093,250
APL	Active	121	Container	2	1,483,763	2,967,525
Schnitzer Steel	Active	60	Dry Bulk	2	1,037,000	2,074,000
TOTALS		<u>1,011</u>		<u>19</u>		N/A
Container		<u>951</u>		<u>17</u>		<u>23, 323,275</u>
Dry Bulk		60		2		2,074,000

Seaport Plan "Figure 4: Port of Oakland, Port Priority Use Area" shows the site as labeled "Inner Harbor Area". This figure will also be updated, as illustrated below, to reflect the removal.





<figure>

Figure 12: Proposed Amendment to Seaport Plan Figure 4